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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,557	02/26/2002	Minoru Tsuruta	15226	7971

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10/21/2003

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EXAMINER

SAM, CHARLES H

ART UNIT PAPER NUMBER

3731

DATE MAILED: 10/21/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/084,557

Applicant(s)

TSURUTA, MINORU

Examiner

Charles H. Sam

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 23-26 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 16 May 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 are rejected under 35 U.S.C. 102(b) as being anticipated by Lippitt et al. (5,906,622). Lippitt discloses a medical retrieval instrument comprising a plurality of filaments 24 for holding an object, a hollow section 18 through which a first end 28 of each of the plurality of filaments 24 passes, a fixing section (34,46) for fixing a second end 26 of each of the plurality of filaments 24.

Regarding claim 2, Lippitt discloses the fixing section (34,46) comprising a positioning section 44 at which the second ends 26 of each of the plurality of filaments 24 are located, and a holding section 40 engaged with the positioning section 44 to hold the plurality of filaments 24.

Regarding claim 3, Lippitt disclose a hollow section 18 comprising a first member 34 including the positioning section 44 and a second member 46 including the holding section 40.

Regarding claim 4, Lippitt discloses the first member 34 engaging with the second member 46 to form the fixing section (34,46).

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Regarding claim 5, Lippitt discloses the first member 34 engaging with the second member 46 to form an engagement surface.

Regarding claim 6, Lippitt discloses the first member 34 including an external surface, and the second member 46 including an internal surface, wherein the engagement surface is formed of the external surface and the internal surface.

Regarding claim 7, Lippitt discloses the first member 34 which is a tube member into which the filament is inserted, the second member 46 including an opening into which the first member 34 is engaged, and the plurality of filaments are inserted into the second member 46.

Regarding claim 8, Lippitt discloses the second member 46 engaging with the first member 34 so that the first member 34 and the second member 46 form an engaging surface, and the fixing section (34,46) is formed on the engagement surface.

Regarding claim 9, Lippitt discloses the first member 34 including an internal surface, the second member includes an external surface, the engagement surface is formed of the internal surface and the external surface, the positioning section is formed on one of the internal surface or the external surface, and the holding section is formed on the other of the external surface or the internal surface.

Regarding claim 10, Lippitt discloses the first member 34 which is a tube, the second member 46 is engaged into the inner side of the tube, and the plurality of filaments are inserted into the second member.

Regarding claim 11, Lippitt discloses an operation section 52 for moving the filaments forward and backward, the operation section 52 being operatively coupled to the first end 28 of each of the plurality of filaments.

Regarding claim 12, Lippitt discloses an insertion section 18 by which the plurality of filaments are inserted into the body cavity, a first end portion of the insertion section being coupled to the hollow section and a second end portion of the insertion section being coupled to the operation section.

Regarding claim 13, Lippitt discloses the fixing section includes a plurality of fixing positions to fix the second end of each of the plurality of filaments, the plurality of fixing positions being provided at equal intervals, see Fig. 27-29..

Regarding claim 14, Lippitt discloses the plurality of fixing positions includes a hole to fix the second end of each of the plurality of filaments, see Fig. 27-29.

Regarding claim 15, Lippitt discloses the plurality of the filaments 16 are formed of a material selected from a group consisting of polyethylene terephthalate, polybutylene terephthalate, polyimide, or NiTi alloy, see column 5, lines 26-32.

Regarding claim 16, Lippitt discloses a plurality of grooves formed on an engagement surface at which the first member and the second member engage, see Fig. 29.

Regarding claim 17, Lippitt discloses wherein the first member includes an internal surface and the second member includes an external surface, wherein the plurality of grooves are formed between the internal surface and the external surface, see Fig. 29.

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Regarding claim 18, Lippitt discloses the plurality of grooves are formed on one of the internal surface or the external surface, see Fig. 29.

Regarding claim 19, Lippitt discloses the first member 34 including an external surface and the second member 46 including an internal surface, wherein the plurality of grooves are formed between the external surface and the internal surface, see Fig. 29.

Regarding claim 20, Lippitt discloses the plurality of grooves are formed on one of the external surface or the internal surface, see Fig. 29.

Regarding claim 21, Lippitt discloses an elongated direction of the plurality of grooves is the same as an elongated direction of the first member or the second member, see Fig. 29.

Regarding claim 23, Lippitt discloses an operation section 52 for moving the filaments forward and backward, the operation section 52 being operatively coupled to each of the plurality of filaments, and an insertion section by which each of the plurality of filaments are inserted into a body cavity, the insertion section being coupled to a first end portion of the second member, and the operation section being coupled to a second end portion of the second member.

Regarding claim 24, Lippitt discloses instrument comprising a plurality of filaments for holding an object and a tube through which a first end portion of each of the plurality of filaments passes, the tube including holes for fixing a second end portion of each of the plurality of filaments, see Fig. 26 and 29.

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Regarding claim 25, Lippitt discloses a plurality of filaments for holding an object, a first tube 446 including a plurality of grooves in which a first end portion of each of the plurality of filaments is disposed, the plurality of grooves are formed on one of an external or internal surface of the first tube, and a second tube 416 engaged with the first tube 446 for fixing the first end portion of each of the plurality of filaments disposed in the plurality of grooves; see Fig. 29, column 23, lines 46-54.

Regarding claim 26, Lippitt discloses a medical retrieval instrument comprising a plurality of filaments 24 for holding an object and a sheath 18, through which a first end 28 of each of the plurality of filaments passes, the sheath 18 having a fixing section (34,46) for fixing a second end 26 of each of the plurality of filaments 24.

Allowable Subject Matter

Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles H. Sam whose telephone number is (703) 305-5650. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Milano can be reached on (703) 308-2496. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0858.

chs

chs

October 8, 2003



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